15

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JL qP
2.7.47

KC
3/7

File No. 108/35

19

Collection No.

Mysore Residency

Bangalore.

(W)

Pros. Serial Nos. 1–6

Subject.

Assessment of Income on Regimental Funds.

Previous References.

No of cases

491/31 (31)

Indexed

Later References.

'A'

L.

14/5/45

B

3/9

S. 97.—(Blue).

MFP—168S&P—(M-184)—11-8-34—60,000.

Office note
destroyed
3/7/45

NOTES AND PRECIS.

U.A.C. D.No. 11537 S.N. 1

Col. 'B' Please see S.N. 4/a and 4/b of File 491/31.

(1) The Collector has already informed the Superintendent of

S.N.4/b (2) Park, Q.V.O.Madras Sappers & Miners, that "Adjutant Charity Fund" is liable to income-tax.

(2) Any income received by trustees on behalf of a -- recognised provident fund as defined in clause (a) of Section 58-A is however exempt from income-tax-vide section 4(3)(ix) of the Income-tax Act. But before recognition could be accorded to any such provident fund it has to satisfy the statutory requirements of Chapter IX-A of the Income-tax Act.

(3) A draft reply on the above lines is submitted for -- approval.

(From page 1)

12-1-35

12.1.35

Secy

(4) The reply proposed in the draft will not help things on much. The Q.V.O. Sappers and Miners are clearly aware that the income of the Fund is liable to tax unless it is recognised by the Commissioner as a "Provident Fund" under the provisions of Chapter IX-A; and it is under

the

the provisions of that Chapter that they have now applied to the Commissioner to accord recognition to the fund as a "Provident Fund".

What we must do is to see and indicate briefly what further information we require - in addition to the copy of the rules of the fund - to enable us to decide whether such recognition can or cannot be granted. Assistant Commissioner and Income-tax Officer should be consulted.

15.1.35

The file may be sent U.O. to the Assistant Commissioner of Income-tax with reference to para 5 ante.

17-1-35

18.1.35

19.1.35

To The Asstt. Commr. of Income-Tax
A.O. I. No. 11,537 § 19.1.35.

I.T.O.

24/1/35.

(7) The Rules sent with the application are not clear as regards the following important particulars:-

(1) Whether the contribution of employees are a definite proportion of their salaries Section 58-C(1)(b) -, and whether the employer contributes and if so whether his contributions do not exceed those made by the

the employees - Section 58-C(1)(c).

The 'table' referred to in Rule (c) of the Rules for Payment of the Fund perhaps gives this information, but is not found in the file.

(2) What sums constitute the Fund (Section 58-C(1)(d).

(3) Who are the Trustees of the Fund (Section 58-C(1)(e).

(4) Participation in the Fund is optional (See the Rule for membership), but it is not clear whether a member can cease to be one at any time, and if so, whether he is entitled to receive the contributions to the Fund made by him up to that date. If he is not entitled, the Fund cannot be recognised (Section 58-C(1)(f) and the first para on page 155 of the Income-tax Manual). Rule (a) of the Rules for Payment seems to indicate that men who have been members for less than one year are not entitled to the refund of their contributions, but that the refund requires the recommendation of the Unit Commander.

The applicant may be asked to make the above points clear and referred to Rule 10 of the Indian Income-tax (Provident Fund Relief) Rules - Vide pages 115 and 116 of the Income-tax Manual - which gives the form in which the application should be made and the documents, particulars and the verification that have to be furnished.

OFFICE OF THE RESIDENT IN MYSORE.
BANGALORE.
31 JAN. 1935
Regd. No. 1096
File. No. 108/35

29.1.1935

No. I.T. Ll. 125/29/1/35.

Assistant Commr.

Commissioner of I.T. a.o. 30/1/35.

DESPATCHED
30

(9) A draft on the lines of the U.O. note of the Income-tax Officer is submitted for approval.

(From para 4)

10-2-35

4.3.35

Secy.

Core
11.3.35.

S.N.2
Issued No. F.108/35/R.O.I., dated the 13th March 1935.

Record

CORRESPONDENCE.

No. 30 / 5228 / 2

OFFICE OF THE OFFICER I/C,W/S;
Q.V.O.MADRAS SAPPERS & MINERS:
BANGALORE DATED 7 - 12 - 1934

To:-

The Commissioner of Income-Tax,
C & M Station,
BANGALORE.

OFFICE OF THE RESIDENT IN MYSORE.
BANGALORE.
11 DEC. 1934
Regd. No. 11,537.
File No. 108/35
Indexed

INCOME-TAX REFUNDS - REGIMENTAL FUNDS.

Sir,

The statement of Refunds of Income-tax due on the Regimental Funds of this Corps, ~~forwarded with~~ received under the Income-tax Officer letter No.Mis.537 dated 13th October 1934, shows the Charity Fund of this Corps as having paid a tax of Rs.1939-0-0 of which Rs.962-7-0 was refunded, net tax paid Rs.976-0-0.

The charity Fund is actually a type of Provident Fund and as such can I understand be exempted from Income tax.

A copy of the rules of charity fund is attached and I should be grateful if you would take the necessary steps to register this fund as a Provident Fund under the Income-tax Act, and to refund the Incom tax paid on the fund.

RSW Sliking

LIEUT,R.E.,
OFFICER I/C WORKSHOPS Q.V.O.MADRAS S & M.

10

RULES OF THE O.V.O.MADRAS S. & M. CHARITY FUND
(ADJUTANT'S CHARITY).
(revised to 1-9-32.)

MEMBERSHIP.- All enrolled ranks of the Corps are eligible for membership. Membership is voluntary but any man wishing to join subsequent to his enlistment may only do so on payment of back subscriptions, plus interest.

RATES OF SUBSCRIPTION AND ~~BENEFITS~~ BENEFITS ON PAYMENT.- See Table on next page. Compound interest is added at the rate of 2½ per cent to benefits. This is in the nature of a bonus and is liable to revision according to the state of the fund.

RULES FOR PAYMENT.-

(a) Payment will only be made to men of under one year's on the recommendation of his Unit Commander.

(b) For broken periods, six months count as a full year, under six months count as nil.

(c) The benefits payable will be calculated from the table on next page and will be the sum of benefits due on the service during which the various rates were paid.

Any broken period of a year (less than 6 months) which does not count as a full year's service for a higher rate may be added to the service in a lower rate if it enables an extra year to be counted in that rate.

e.g.- If a man with 8 years and 7 months service has 4 years and 2 months service in a higher rate and 4 years and 5 months service in a lower rate he will receive 4 years benefits at the higher rate and 5 years at the lower rate.

(d) Men on transfer to the reserve will receive payments as on discharge.

(e) In the case of the death of a member, double benefits will be paid to the 1st. heir for pension as recorded in the Sheet Roll. If a man dies without a nominated heir, the heir to property will receive the payment the man would have received on discharge.

LEGAL.-
(a) The following extract from Government letter No.1071 dated 7th March, 1881, received under Adjutant General's Memorandum No.583 N.A. dated 10th idem, giving the opinion of the Advocate General on the "Attachment" by a Civil Court is published:-

The so-called "Charity Fund" is a species of Provident Fund in which the subscribers have a contingent or expectant interest. The subscriptions are vested in trust in the Corps or in the committee for the time being for the benefit of the subscriber during the period of his service. They form part of his personal estate, and are not either pay and allowances, or pension. In my opinion this money can also be attached by a Civil Court.

(b) The District Judge, Bangalore, in his order, dated 23rd February, 1892, on execution application No.2446 of 1891 decided that the charity fund payable to the heirs, etc., in the event of a man's death is not attachable by a Civil court

PAYMENTS.

(a) Payments will only be made to men of under one years service on the recommendation of his Unit Command

(b) For broken periods, after a total service of 1 year; six months will count as a full year, under 6 mon will count as Nil.

(c) The benefits payable will be calculated from the tab at the end and will be the sum of the benefits du on the service during which the old rate was paid plus the benefits due on the service during which the intermediate rate was paid plus the benefits on the service during which the new rate was paid.

Any broken period of a year (less than six months) w does not count as a full year's service for a hig rate may be added to the service in a lower rate it enables an extra year to be counted in that rat

E.G.- If a man with 8 years 7months service has 4 yea and 2 months service in a higher rate and 4 years 5 months service in a lower rate he will receive 4 years benefits at the higher rate and 5 years at the lower rate.

(d) Men on transfer on the reserve will receive payments as on discharge.

(e) In the case of the death of a member, double benefits will be paid to the first heir for pension as recorded in the sheet roll. If a man dies without a nominated heir, the heir to property will receive a the payment the man would have received on discharg

LEGAL.-
(a) The following extract from Government letter No.1071

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(b) The District Judge, Bangalore, in his order, dated 20th Feb. 1892, on execution application No.2446 of 1891, decided that the Charity Fund payable to the heirs, etc., in the event of a man's death is not attachable by a Civil Court.

Scale of Payments on Discharge .....

S.N.2

15

No.F.108-35
R.O.I.

From

Major C.G.N. Edwards, I.A.,
Commissioner of Income-tax,
Civil and Military Station,

To

The Officer in charge,
Workshops,
Queen Victoria's Own Madras Sappers and Miners,
Bangalore.

Dated Bangalore, the 13th March 1935.

ASSESSMENT TO INCOME-TAX OF INCOME FROM REGIMENTAL FUNDS.

....

Sir,

With reference to your letter No.30/5228/2, dated the 7th December 1934 I have the honour to invite a reference to Rule 10 of the Indian Income-tax (Provident Funds Relief) Rules printed at pages 113-117 of the Income-tax Manual (Fifth Edition) and to say that the application for recognition of the Charity Fund of your Corps as a Provident Fund should be made through the Income-tax Officer, Civil and Military Station, Bangalore, in the form and in the manner prescribed in that Rule. The documents, and particulars and the verification specified in the Rule should also be furnished.

2. The Rules relating to the charity fund which have been forwarded with your letter are not clear as regards certain important particulars; and you should note that the following points should be made clear when submitting your application to the Income-tax Officer in the manner prescribed in the previous paragraph.

(1) (a) Whether the contributions of employees are

a

16

a definite proportion of their salaries - Section 58-C(1)(b) of the Act.

(b) Whether the employer contributes and if so, whether or not his contributions exceed those made by the employees - Section 58-C(1)(c).

(The 'table' referred to in Rule (c) of your Rules for payment of the Fund perhaps gives this information; but it has not been received with your letter.)

(2) What sums constitute the Fund- Section 58-C(1)(d).

(3) Who are the Trustees of the Fund - Section 58-C(1)(e).

(4) It is seen from the Rule for membership that participation in the Fund is optional; but it is not clear whether a member can cease to be a member at any time and if so, whether he is entitled to receive the contributions to the Fund made by him up to that date. If he is not so entitled, the Fund cannot be recognised - vide Section 58-C(1)(f) and the first paragraph on page 155 of the Income-tax Manual. (Rule (a) of the Rules for Payment seems to indicate that men of under one year's service are not entitled to refund except on the recommendation of their Unit Commander.)

I have the honour to be,
Sir,
Your most obedient servant,

13/3

COMMISSIONER OF INCOME-TAX.

PKH

S. N. 3

17

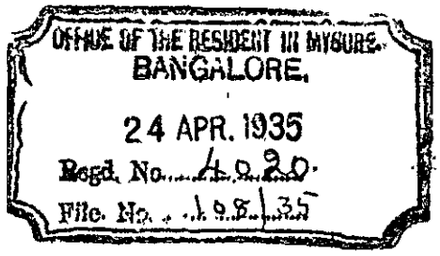
C.No.356-I.T./35.

CENTRAL BOARD OF REVENUE.

From

Rai Bahadur Pandit Ram Nath, B.A.,
Second Secretary, Central Board of Revenue.

To



The Secretary to the Resident, Mysore, and
Commissioner of Income-tax,
Civil & Military Station, Bangalore.

New Delhi, the 16th April, 1935.

Sir,

LIABILITY TO INCOME-TAX—REGIMENTAL INSTITUTES—INCOME FROM REBATES AND INTEREST ETC.

*Return requested. (not yet up)

I am directed to forward the enclosed Notice* under Section 34 of the Indian Income-tax Act, 1922, served by the Income-tax Officer, Civil and Military Station, Bangalore, on the Officer Commanding, 2nd Bn. South Stafford-shire Regiment, Bangalore, and to request that the Board may be furnished with your views as to the liability of the Regimental Institutes to income-tax. It is understood from the Army Department that so far income-tax has not been demanded from such Institutes in any other province. I am to add that, pending the orders of the Board, the Income-tax Officer may be instructed not to proceed with the assessment of the Regimental Institutes in question.

I have the honour to be,
Sir,
Your most obedient servant,

16.4.35

Second Secretary, Central Board of Revenue.

S. N. 4

18

THE OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE,

Bangalore, the 11th May 1935.

Issued 11/5/35

No. 108/35/R.C.I.

A copy of the undermentioned paper(s) is forwarded to the Income-tax Officer, (Through the Asst. Commr. of Income-tax) C.& M. Station, Bangalore, for favour of remarks, ~~in continuation of~~ with reference to correspondence ending with letter from this office No. 919, dated the 31st January 1934.

S.N. 18
F.491/31
'B'

for information, in continuation of / with reference to the correspondence ending with (this)

Memorandum / letter / endorsement from

~~No.~~ ~~dated the~~

By order, etc.,

3/5

For Secretary / ~~Asst. Secy.~~ to the Resident in Mysore & Commissioner of Income-tax

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List of papers.

Letter from the Second Secretary, Central Board of Revenue, C.No. 356-I.T./35, dated the 16th April 1935,*with enclosures.

Return requested.

2-5-35

S.No.5

S.S

No. I.T.Gl.125

Office of the Income-tax Officer,
Civil and Military Station, Bangalore.

Dated 16th May, 1935.

FROM

M.R.Ry. Rao Sahib S.Kuppuswami Naidu, Garu, B.A.,

INCOME-TAX OFFICER, CIVIL AND MILITARY STATION,

BANGALORE.

To

The Secretary to the Hon'ble the Resident
in Mysore and Commissioner of Income-tax,
Civil and Military Station, Bangalore.

Through
The Assistant Commissioner of Income-tax,
Civil and Military Station, Bangalore.

18-5-35

OFFICE OF THE RESIDENT IN MYSORE
BANGALORE.
17 MAY 1935
Regd. No. 4839
File. No.

S.N.4 Cor: Page 8 (R)

Liability to Income-tax - Regimental Institutes - incomes from rebates, interest, etc.

In reply to your endorsement No.F.108-35/R.O.I., dated the 11th May, 1935, forwarding for my remarks copy of letter from the Central Board of Revenue C.No.356-I.T. 35, dated the 16th April, 1935, on the above subject, I have the honour to invite a reference to the correspondence ending with your letter No.9117, dated the 11th September 1933, addressed to Headquarters, Madras and Deccan Districts. The Central Board of Revenue to whom the question was referred were of opinion that the income of Regimental Institutes ~~are~~ is taxable as the income of an association of individuals. In your letter No.919, dated the 31st January, 1934, to which reference is made in your endorsement under reply, the orders of the Central Board of Revenue on the subsidiary question whether the incomes of the various units should be assessed together or separately, were communicated.

S.N. 11 F.491/31 (B)

S.N. 18 F.491/31 (B)

The

The enclosures to the letter from the Central Board of Revenue are returned herewith.

I have the honour to be
Sir,
Your most obedient servant,

INCOME-TAX OFFICER.

F o r w a r d e d.

16/5

ASSISTANT COMMISSIONER

MVS.

S.N. 6

All Communications should be addressed to the Secretary to the Resident in Mysore, Bangalore, by designation and not by name.

No.F.108-35
R.O.I.

Issued 25/6.

FROM

Major C.G.N. Edwards, I.A.,

SECRETARY TO THE HON'BLE THE RESIDENT IN MYSORE.
and
COMMISSIONER OF INCOME-TAX, CIVIL & MILITARY STATION.

To

The Second Secretary,

Central Board of Revenue.

Dated, Bangalore, the 25 June *193* 5.

Subject.

Liability to income-tax - Regimental Institutes-
Income from rebates and interest etc.

******

SIR,

I am directed to refer to your letter C.No.356-I.T./35, dated the 16th April 1935, and to say that when the question of assessment of income of Regimental Institutes was taken up in 1932 by the Income-tax Officer, Civil and Military Station, Bangalore, the Military authorities asked that the question should be referred to the Government of India, as it was not a local one but affected Regimental Institutes all over India. The Central Board of Revenue was therefore asked, in letter from this Residency No.5625, dated the 4th August 1933, to give a ruling on the question of the liability of such Institutes to income-tax.

In reply it was stated in your letter D.Dis No.656-I.T/33, dated the 15th August 1933, that the income of Regimental Institutes was liable to tax as the income of an association of individuals. Attention is also invited to your letter D.Dis No.993-I.T/33, dated the 6th January 1934, in which it was explained that the income of each unit should be assessed separately for purposes of income-tax.

2. The enclosures to your letter are returned.

Please see S.N. 61
File 321/35

† Circular No. 7 of 1935
R Dis No. 366-2 F/35

I have the honour to be,
Sir,
Your most obedient servant,

Vone 24/6

SECRETARY TO THE RESIDENT
and
COMMISSIONER OF INCOME-TAX. Copy

Copy to the Income-tax Officer, Civil and Military Station, Bangalore, through the Assistant Commissioner of Income-tax, with reference to his letter No.I.T.Gl.125, dated the 16th May 1935. Pending the orders of the Board, the assessment of the Regimental Institutes in question should be held in abeyance.

PKH